

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY
140 N. 8th Street, Suite 290, Lincoln, Nebraska
MINUTES

May 19, 2000

1. General

A. Call to Order and Roll Call. The Board of Public Accountancy was called to order at 8:34 a.m. on Friday, May 19, 2000 with Chair William Gaines, Jr. presiding. The roll was called with the following members present: William Gaines, Nina Kavich, Dean Graf, Richard Hoiekvam, George Klein, William Nuckolls, Luke Aldy and Kathleen Smith. Also present was Executive Director, Annette Harmon. The meeting was held at the office of the Board at 140 N. 8th Street, Suite 290, Lincoln, Nebraska.

B. Approval of meeting agenda for May 19, 2000. Moved by Klein, seconded by Hoiekvam, to approve the agenda for the May 19, 2000 meeting as written. On roll call vote, all members present voted aye. Motion number 1 carried.

C. Approval of the minutes of the March 27, 2000 Board meeting. Moved by Graf, seconded by Klein, to approve the minutes as written. On roll call vote, all members present voted aye. Motion number 2 carried.

2. Consent Agenda

Approval of Consent Agenda by Roll Call Vote. Moved by Smith, seconded by Nuckolls, to approve the Consent Agenda. On roll call vote, all members present voted aye. Motion number 3 carried.

A. Published Notice of Meeting. Pursuant to call and published notice, the notice of meeting is herewith attached.

B. Review of Board Budget Status Report. The Board reviewed the April 30, 2000 Budget Status Report.

C. Approval of March and April 2000 disbursements. The Board reviewed and approved the March and April 2000 disbursements.

D. Requests for Acceptance of Surrendered Certificates and Approval of Inactive-Retired Classification. The Board accepted the voluntary surrender of the CPA certificate for Patricia Wittmaack (#3728), and the classification of Inactive-Retired for James W. Allen (#2767).

E. Office Management Report. The Board reviewed a report on permits and registrations issued as of May 1, 2000. Prior year's statistics were also reviewed for comparison.

CLOSED MEETING

Closed Meeting. Moved by Smith, seconded by Graf, that the Board go into closed session at 8:37 a.m. for litigation and personnel matters. On roll call vote, all members present voted aye. Motion number 4 carried.

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Member Hoiekvam recused himself from the closed session and left the conference room during part of the closed meeting.

Return to Open Meeting. Moved by Smith, seconded by Aldy, that the Board return to open session at 8:57 a.m. On roll call vote, all members present voted aye. Motion number 5 carried.

Moved by Smith, seconded by Graf, to move Agenda Item 4 to follow Agenda Item 5 in order to conduct the formal hearings according to schedule. On roll call vote, all members present voted aye. Motion number 6 carried.

5. Formal Hearings

A. Larry Grill – Request for Reinstatement of Revoked CPA Certificate. At 9:08 a.m. a hearing was held at the request of Larry Grill for the purpose of reinstating his revoked CPA certificate. Kent Radke acted as hearing officer, and Robert Gruit represented the Board. Mr. Grill was present but was not represented by Counsel. All Board Members were present and participating in this matter.

B. Max Kathol – Complaint #98-05. At 9:22 a.m. a hearing was held by formal Notice of Complaint and Hearing filed by the Board. In March 1999, Mr. Max Kathol entered into a Consent Order with the Board regarding a pending complaint. The current Complaint and Notice of Hearing alleges that Mr. Kathol violated the Consent Order and the Board's Rules and Regulations. Kent Radke acted as hearing officer, and Robert Gruit represented the Board. Mr. Kathol was present and was represented by Counsel, Mr. Tim Engler. Board members present and participating in this matter were William Gaines, Nina Kavich, Richard Hoiekvam, George Klein, William Nuckolls, Luke Aldy and Kathleen Smith.

CLOSED MEETING

Closed Meeting. Moved by Smith, seconded by Klein, to go into closed session at 11:59 a.m. for the purposes of enforcement. On roll call vote, all members present voted aye, except Member Hoiekvam who was temporarily absent. Motion number 7 carried.

Return to Open Meeting. Moved by Smith, seconded by Aldy, that the Board return to open session at 2:17 p.m. On roll call vote, all members present voted aye. Motion number 8 carried.

Moved by Kavich, seconded by Hoiekvam, to move Agenda Item 4 to the end of the Agenda before Adjournment. On roll call vote, all members present voted aye. Motion number 9 carried.

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5. Formal Hearings

A. Larry Grill – Request for Reinstatement of Revoked CPA Certificate. Moved by Smith, seconded by Nuckolls, to reinstate the CPA Certificate of Larry Grill. On roll call vote, all members present voted aye. Motion number 10 carried.

B. Max Kathol – Complaint #98-05. Moved by Klein to dismiss the complaint against Max Kathol. Motion died for lack of a second.

6. Report of Enforcement of Professional Conduct Committee

A. Complaint Consent Agenda. Moved by Smith, with the Committee's recommendation, to approve the complaint consent agenda. On roll call vote, all members present voted aye. Motion number 11 carried.

1. Complaint Status Log. The Board reviewed the Complaint Status Log, consisting of open and monitored complaints. No action necessary.

2. 97-19 Litigation Against CPA Firm for Wrongful Termination of Employee. Received District record showing dismissal of case. Letters were sent in accordance with the Board's new policy informing both parties that our file would be closed unless we heard something to the contrary within thirty days. No response was received from any of the parties. Motion to close complaint.

3. 98-13 Litigation Including a Suite Filed by a CPA Firm Against Former Client to Collect Fees and a Counter-claim suit Filed by Client Alleging Breach of Contract, Fraud, Misrepresentation and Negligence. Stipulated Dismissal filed by parties July 8, 1999. Letters were sent in accordance with the Board's new policy informing both parties that our file would be closed unless we heard something to the contrary within thirty days. No response was received from any of the parties. Motion to close complaint.

4. 98-14 Litigation For Summary Judgment for Payment of a Bank Loan Guaranteed by CPA. Judgment entered for the bank in the amount of \$544,202.32. Letters were sent in accordance with the Board's new policy informing both parties that our file would be closed unless we heard something to the contrary within thirty days. No response was received from any of the parties. Motion to close complaint.

B. Findings of Fact/Conclusions of Law for Gerard Forget: Complaint #99-07. Moved by Smith, with the Committee's recommendation, to postpone this item until the Board's next regularly scheduled meeting. On roll call vote, all members present voted aye. Motion number 12 carried.

C. Complaint #00-01 – Incompetent & negligent preparation of Subchapter S tax return. Moved by Smith, seconded by Klein, to schedule a show cause hearing for this CPA at the next Board meeting. On roll call vote, all members present voted aye. Motion number 13 carried.

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D. Complaint #00-02 – Use of CPA designation without passing Exam. Roger B. Leach sat for the CPA examination one time in Nebraska but told his employer via his resume and verbally that he was a CPA, and that he had passed the examination. A letter of inquiry was sent to Mr. Leach's employer with the hopes that they would forward it to him. Personnel attempted to locate an address for him and were unsuccessful. Moved by Smith, with the Committee's recommendation, to close the complaint. On roll call vote, all members present voted aye. Motion number 14 carried.

7. Educational Advisory Committee Chair

A. Report from the Committee. A report of the Committee's meeting on April 10, 2000 was distributed to the Board. Moved by Kavich, seconded by Klein, to adopt as policy the Board's and Committee's interpretation of Title 288, Chapter 9, Section 003.04, Review of Transcript; Appropriate level of course work; transfer hours. That interpretation is stated as follows:

"Credit hours transferred from non-four year institutions to four year institutions shall be acceptable for purposes of satisfying the required 150 semester credit hour requirement solely to the extent the four year institution "accepts" the transferred hours for the purposes of awarding a degree. Post baccalaureate degree hours would need to be from a four year institution."

On roll call vote, all members present voted aye. Motion number 15 carried.

Member Kavich explained that the Committee recommended publication of guidelines, and answers to questions; and posting them on the web site. Hopefully, this would assist candidates and personnel in dealing with candidates and applications.

8. Report of Continuing Education Committee

A. Ratification of staff program evaluations since last meeting. Moved by Hoiekvam, with the Committee's recommendation, to approve the recommendations of administrative personnel for all the listings of programs evaluated and approved by personnel, and to also accept for credit the two courses originally denied by staff as being acceptable for credit: "Compliance: Designing, Implementing and Managing," and "Insurance & Banking Seminar." On roll call vote, all members present voted aye. Motion number 16 carried.

The Committee presented an alternate procedure approach for future Board meetings that would involve the Committee reviewing and approving a list of staff recommendations, then incorporating the Committee's recommendation into a statistical Summary Report (giving statistics of course denials, approvals and reconsideration requests), and forwarding the Summary Report to the Board to be voted on and approved by the Board. Moved by Hoiekvam, with the Committee's recommendation, to change the current process of reporting specific courses to the Board and

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substitute a statistical Summary Report. On roll call vote, all members present voted aye. Motion number 17 carried.

The Committee would also like to see an alternative to the phrase "Does Not Qualify." They also discussed the approval of courses based on the background of the individual versus the content of the course. The Committee felt it was very important to be consistent in reviewing/approving/denying courses on the basis of content, not on the individual requestor. It was noted that the Board now has a searchable database that will assist in evaluating courses consistently.

B. Reconsideration of Program Denials. The Board reviewed letters from licensees requesting reconsideration of program denials. Moved by Hoiekvam, with the Committee's recommendation, to reverse their previous denial and accept Courses #00-79, #00-80, #99-639 to 99-642, #765, #435, #1125, #99-749, #99-750 and #541 for credit. The committee reiterated the denial of Courses #99-755, #99-756, #99-664, #99-140, #440, #1190, #1188, #1189, #1191, #1192, #1193, and #99-814. On roll call vote, all members present voted aye. Motion number 18 carried.

C. Policy Manual Changes. Moved by Hoiekvam, with the Committee's recommendation, to discard all the policies from the previous manual except for the following:

"Moved by Gaines, seconded by Kavich, that as it relates to future handling of CPE deficiencies, the Board believes the provision exists within our rules (Title 288) that mandates the administrative process, and it should be run that way. If the CPE Report of Attendance is not in to the Board by January 31, the permit holder will not be able to renew his/her permit. The rules regarding CPE and the administrative procedure should be published in the Board's Newsletter. On roll call vote, all members present voted aye. Motion number 5 carried." (Board Meeting May 21-22, 1998)

This policy will be incorporated into the CPE Guidelines. On roll call vote, all members present voted aye. Motion number 19 carried.

10. Public Comment Period

Donald Conway and Jeff Wilson appeared before the Board during the Public Comment Period to discuss letters of rejection they had received to sit for the May 2000 Uniform CPA Examination under the 150-Hour Education Requirement.

9. Report of Examination & Licensing Committee

A. Ratification of initial permits to practice issued; certificates issued. Moved by Aldy, with Committee's recommendation, to ratify the initial permits to practice and certificates issued by

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examination and reciprocity. On roll call vote, all members present voted aye. Motion number 20 carried.

B. Application(s) for Reinstatement to Active Permit. Moved by Aldy, with the Committee's recommendation, to approve the application for Reinstatement to Active Permit. On roll call vote, all members present voted aye. Motion number 21 carried.

C. Plans to Remove Deficiencies for Renewal of Active Permit. Moved by Aldy, with the Committee's recommendation, to send a letter to those individuals that did not respond to the Board's Certified letter regarding their CPE deficiency, stating that they would not be issued an active permit to practice for the period beginning July 1, 2000, and that they have the option of registering Inactive, surrendering their certificate, or requesting Retired Status (if at least age 60). If they have not taken any action before June 30, 2000, they will receive the July 1, 2000 Certified Letter that their permit has expired. On roll call vote, all members present voted aye. Motion number 22 carried.

Moved by Aldy, with the Committee's recommendation, that those individuals who have filed a plan to remove their CPE deficiencies or who have submitted extra hours after the deadline for the completion of the required CPE hours be required to sign a Stipulation and Consent Order admitting violation of Title 288, Chapter 8, Section 007.03 and pay a \$100 administrative fee; and to approve the renewal of active permits for those have completed their CPE deficiency plans by the June 15, 2000 deadline, including those individuals who have entered into a Stipulation and Consent Order and have paid the assessed administrative fee by the required date. On roll call vote, all members present voted aye. Motion number 23 carried.

D. Firm Ownership. The Committee discussed Section 1-162.01 of the Public Accountancy Act and Chapter 11 of Title 288, Revised and Substituted Rules of the Board regarding ownership of a CPA firm by another firm entity.

E. Applications for November 2000 CPA Exam. Moved by Aldy, seconded by Smith, to approve the use of the applications for the November 2000 CPA Exam with date revisions made and amendments regarding the Chapter 9, Section 003.04 provision. On roll call vote, all members present voted aye. Motion number 24 carried.

CLOSED MEETING

Closed Meeting. Moved by Aldy, seconded by Smith, that the Board go into closed session at 4:32 p.m. for personnel matters. On roll call vote, all members present voted aye. Motion number 25 carried.

Return to Open Meeting. Moved by Smith, seconded by Nuckolls, that the Board return to open session at 5:32 a.m. On roll call vote, all members present voted aye. Motion number 26 carried.

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4. New Business

A. Future Meeting Dates. The next regularly scheduled Board meetings are July 17-18, 2000 in Grand Island, and August 25 and November 16-17 in Lincoln.

B. Written Report on NASBA's Ethics Conference. Member Richard Hoiekvam attended NASBA's Ethics Conference on April 29, 2000 in Alexandria, Virginia and gave a brief verbal report on the conference.

C. Report from the Chairman of the Board: Evaluation of Executive Director. In accordance with State law and the Board's July 1994 policy, the Chair reported that the Executive Committee and prior Chair Kathleen Smith had performed the annual evaluation of the Executive Director during the May CPA Exam. It was brought to the Board for review before sending to DAS Personnel in accordance with the law.

Moved by Smith, seconded by Graf, to increase the Executive Director's current salary by 5% effective July 1, 2000. On roll call vote, all members present voted aye, except Member Klein who voted nay. Motion number 27 carried.

D. Budget: Letterhead and Plant Maintenance. The Board reviewed costs for the current letterhead and plant maintenance.

E. NASBA. The Board reviewed correspondence related to the National Association of State Boards of Accountancy.

11. Adjournment

It was moved by Smith, seconded by Aldy, that the Board adjourn at 6:02 p.m. On roll call vote, all members present voted aye. Motion number 28 carried.

Submitted by,

Nina B. Kavich, CPA
Secretary